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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,402	10/03/2003	Keith Alan Miesel	009.6001 (P-11290.00)	1006

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EXAMINER

ALTER, ALYSSA M

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,402

Applicant(s)

MIESEL ET AL.

Examiner

Alyssa M. Alter

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) 11-24 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-10 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection in view of Stokes et al. (US 5,814,089).

Election/Restrictions

Claims 11-24 were withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected methods and apparatus, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 22, 2006.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al. (US 5,814,089) in view of King (US 6,058,331). Stokes et al. discloses an implanted central control module with a power source, such as a battery, and transmitting capabilities in order to transmit power to a plurality of implanted remote devices. Figure 1 displays the central control module 25 and the plurality of remote devices 26-29. The examiner considers a remote device to be a satellite module. Also,

the "remote devices may have a lead"(col. 3, lines 51-53) as also seen in figure 1 on the remote devices 26-28.

The remote device or satellite module is further depicted in figure 3A. The remote device has a receiver circuit 52, which the examiner considers to be the communication module, a controller 60, which may be a microprocessor, and the amplifiers 62, which the examiner considers to be the sense amp.

The "controller 60 is used to control the activities of the remote device, which include delivering stimulus pulses through driver 61 and electrodes 64, and receiving sensed information picked up at electrodes 64 and amplified at 62"(col. 6, lines 5-9). In order to store the data sensed by the electrode, there is obviously memory and an A/D converter to convert the analog signals sensed by the electrodes to a format compatible with the microprocessor.

Furthermore, in figure 3A, the controller 60 is connected to the voltage/current drivers, which the examiner considers to be a switching module that selects and distributes signals received from the controller 60 to the electrodes 64.

As to claim 1, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138.

Stokes et al. discloses the claimed invention except for the first lead coupled to the central module. King teaches that it is known to use either telemetry downlink or direct leads as set forth in column 7, line 62, for the purpose of transmitting data. It would have been obvious to one having ordinary skill in the art at the time the invention

was made to have modified the telemetry means as taught by Stokes et al. with the leads as taught by King, since such a modification is a well known means to transmit data and receive data from an implantable medical device. Furthermore, the incorporation of leads would reduce the problems with data transmission, such as signal strength and data accuracy.

As to claim 6, remote units 26-29 are configured to deliver therapy to a target location. For example, "unit 26 delivers pacing or cardioversion pulses to the right atrium; remote unit 27 delivers pacing or cardioversion pulses to the right ventricle; remote unit 28 delivers pacing or cardioversion pulses to the left atrium; and remote unit 29 delivers stimulus pulses to another location"(col. 3, lines 36-41).

As to claim 7, the controller 60 can be comprised of "a microprocessor or equivalent logic and associated memory"(col. 6, lines 2-5). Therefore, the examiner considers the equivalent logic to be the logic block and the associated memory to be the buffer.

As to claims 8-9, since the satellite module, or remote devices, and the control module are wirelessly connected they have no wire interconnections. Thus, the system is limited to zero wire connections, and as such, has less than two or four wire connections.

Conclusion

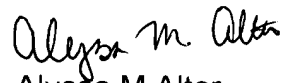
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

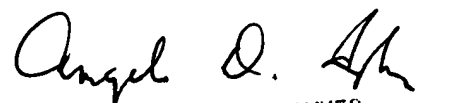
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Alyssa M Alter
Examiner
Art Unit 3762


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